IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 954 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UNITED INDIA INSURANCE CO LTD.

Versus

RAMJIBHAI JESINGBHAI SUMRA

Appearance:

MR VP NANAVATI for Petitioner

NOTICE SERVED for Respondent No. 1, 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 11/04/2001

ORAL JUDGEMENT

Heard Mr. V.P.Nanavaty learned advocate for the appellant. Respondents are absent though duly served.

2. This is an appeal under Section 173 of the Motor

Vehicle Act, 1898 (for short "the Act") at the instance of original opponent no.2 - United India Insurance Co. Ltd. who is insurer of the offending vehicle.

3. The appellant has challenged herein the order passed by Motor Accident Claim Tribunal, Bhavnagar under Section 140 of the Act and as such, the interim award is subject to adjustment against the final award which may be passed in the main Claim Petition No. 802/2000 filed by opponent nos. 1 and 2 which is pending before the M.A.C.Tribunal, Bhavanagar.

4. In the above stated premise, it is difficult to find any reason to interfere at this stage of the matter and no useful purpose would be served by admitting the present appeal.

5. However, the original claimant - respondent nos. 1 and 2 shall file an undertaking before the M.A.C. Tribunal, Bhavanagar in the proceedings of M.A.C.Petition No. 802/2000 within four weeks hereof or on service of order to the effect that the main claim petition being M.A.C.Petition No.802/2000 shall not be abundant nor be withdrawn or shall not be permitted to be dismissed for default or for any other cause and the claimant shall obtain the decision on merits in the said Claim Petition No. 802/2000 pending before the M.A.C.Tribunal, Bhavangar.

6. On the said undertaking being filed, the amount deposited by the present appellant and awarded by way of interim award under the impugned order may be permitted to be withdrawn by the original claimant - present respondent nos. 1 and 2 on furnishing appropriate security to the satisfaction of the Tribunal. Subject to aforesaid observations and directions stated hereinabove, present appeal stands dispossed of as dismissed with no order as to costs.

7. The amount deposited by appellant in this Court while filing the appeal being Rs. 12,500/- be forthwith transmitted to M.A.C.Tribunal, Bhavanagar along with Record and Proceedings, if any, called for. It may be noted that learned advocate for the appellant Mr. V.P.Nanavaty has stated at bar that as per his instructions received from the appellant the remaining amount of interim award impugned in the present appeal has been deposited in M.A.C.Tribunal, Bhavnagar on 14.3.2001. The said amount shall be disbursed as per directions given hereinabove.

(A.K.Trivedi,J.)

(vipul)